G. R. S. IX-5]

Previous references.

1891-92

~~192~~ .

(L. R.)

File No 137-91

Serial Nos 1 — 6

Later references.

LR. 137-91.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 — 6

Part B for May 26

SUBJECT.

Appeal of Hajee Razoochian, Coj. Re
re. the Sale of Sur. No 26 in
Mauza Jewana Village.

126.

Section 12 & 13 of Act
Appellant. Sajid Bapoo Khan
Respt. Superintendent Surbadi Sub

The appeal is against an order of the Deputy Commr of Kadur 2 19th March 1892, revising under the provisions of Secn 2 of Sec: 12 Land Revenue Code, the boundary fixed by the Survey Department between Survey No 61, the cofee garden belonging to Respondent, and Survey No 26 which was purchased by Appellant for Rs 3600-- -, at the auction held on the Government made for it by Respondent, and holding that the correct boundary is A B C D and not A D

2. When Survey No 26, applied for by Respondent, was knocked down to Appellant, who outbid Respondent,

Ref Proceedings
the case
must be seen
Jr. 31/8/93

X I would be
decline.

the latter presented an application explaining that a portion of his estate No 6 had been erroneously included by the Survey Dept in R. No 26, and that some huts he bringing to his estate were there, and prayed that No 6 should either be given to him or reserved by Government.

2

3. The Deputy Commissioner Col: Campbell did not believe the explanation, observed that he saw no reason to interfere with the sale of No 26 and directed that the area reserved therein at the time of sale on account of pathways viz, 2 acres and 5 guntas, be carefully marked out so that there may be no dispute in future. Upon a further report, received from the Surveyor, Col: Campbell however observed that it seemed highly probable the Respondent had encroached upon No 26 and planted it with Coffee several years ago, that Respondent's

possession of the said portion of No 26 could have been well known to appellant when bidding at the auction and that Respondent could not be summarily evicted until the boundary marks and boundary line of No 26 had been determined under Sections 12, 13 and 17 Land Revenue Code. Accordingly that Officer, in confirming the sale of No 26, directed the District Surveyor to determine the boundary line of Nos 26 & 61.

4. On receipt of the District Surveyor's report, the present Deputy Commr passed the order appealed against by allowing Respondent's contention, and holding that the boundary line is ABCD and not AD. The order is based on Kotcha Jipphani and Plot Books of the Survey Department and the possession and enjoyment of Respondent

5. The grounds of appeal are:—

(1) It is clear from the

Meldrum's first report, survey Blaauw and village map, that the Respondent had encroached upon Lot 26. The Blaauw dosvere put up immediately after Resurvey.

(2) The encroachment was recent as may be seen from the age of the coffee plants.

(3) The Respondent objected before the Land authorities, when they came and marked the boundary, that he had nothing to say to what they had done.

(4) The fact that the boundary was liable to rectification ought to have been mentioned in the Proclamation of sale, in which case appellant would not have purchased the land for the large sum he paid.

6. The appellant prays that the Deputy Commissioner may be ordered to inspect the locality in company with the Survey Superintendent and offers to pay the cost of the inspection.

Note - At an ~~earliest~~ earlier stage of these proceedings

The Respondent had preferred an appeal to this Office complaining of erroneous inclusion of a portion of his estate in Survey No 26; but that appeal abated when the final order of the Deputy Commissioner under appeal was passed, and the Deputy Commissioner's order copy of which was submitted to this Office was recorded.

Appeal dismissed.

6

O.S. No 212 of 1892-93

Appt
Haji Rasulkhan
of Jarkari
Kadur Dt

Respt
Togere Hankal
Mohaddin
Sab

In September 1888 Respt applied for survey no 26 (5 Acres) - In March 1889, he stated that he applied for the land because a portion of his father estate (No 61) was erroneously included by the Survey Dept in No 61. The land was at last sold in auction on 25 May 1891 at which Apht purchased it for Rs 3600. On 29 June 1891, the Respt again claimed the land on the ground that the estate was included in it. An enquiry was ordered to be held & the sale was confirmed in regard to the land claimed by R Respt as belonging to his estate, & meanwhile the sale was confirmed in July 1891.

1892, the Dy Comr after enquiry decided ~~the case~~ under Sec 127 of the Rev Code, that according to the Katchadeppani, an area of 2.35 of Survey No 26 belonged to the Respt & directed the remainder to be made over to the appt. The appeal is against the order.

The appellant's contention is that he is entitled to the whole of Survey No 26, as no mention was made in the sale proclamation that any portion of it belonged to a third party. The laws now also to the appellant ~~produced~~ in support of his plea.

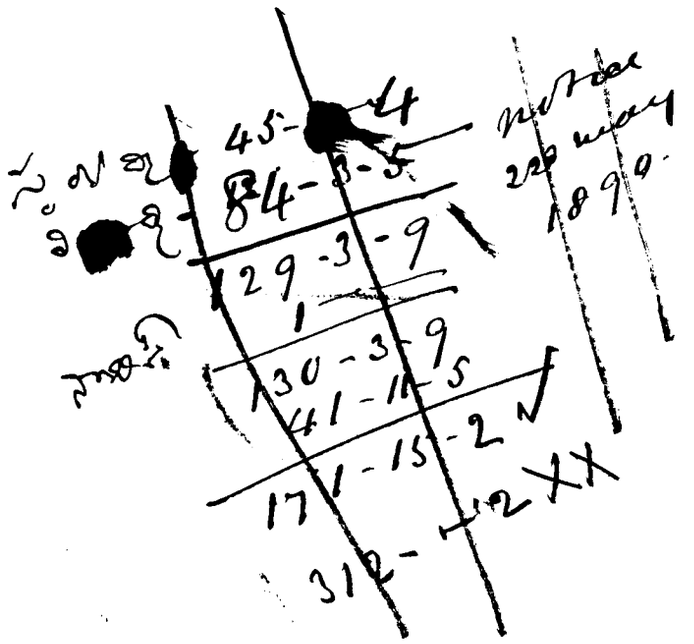
Total area of No 26	58.5
Deduct	
(a) Kharab	2.5
(b) Area belonging to Respt	2.35
Remains	53.5

~~The appellant's contention is~~

Under the foregoing circumstances, Govt see no reason to interfere with the action of the Dy Comr. If the appellant within 3 months from the date furnishes security to the satisfaction of the Collr the sale cancelled

8

-1 Dy Coll also said that he
would consider the claims of
the applt to a refund of ~~a pro~~ the proportion of the
~~proportionate amount~~ sale proceeds as
are appropriate to the area made
~~over~~ over to Respt.



9

A may be cancelled & the land
sold again or a ~~deficiency~~ refund
of the amount of the sale proceeds as
~~per the Covenant payable by Lessee~~
proportion to the area made over to
the Respdt.

ref
31/VII/93

41"

Mr informed that the Govt
approve of the action taken by
the Dy Com^r — Vf Petitioner wishes
within 3 months from the date, to
have the sale cancelled, the Dy
Com^r has been requested to cancel
the re-sale the land, & ~~that~~, ~~he~~
~~should~~ pr may be allowed to
~~obtain~~ a refund of a sum
in proportion to the ~~amount~~ area
made over to the Respdt.

ref

41"

[illegible]

[illegible]

[illegible]

10

(General Serial No. 82.)

1892.

No.	212
Name of Petitioner.	Haji Rasul Khan Coffee-Planter
Village.	Jaukeré
Taluk.	Jaukeré
District.	Kadur
Date of Arzi.	18/4/92
Date of Receipt.	23/4/92
Date of Disposal.	
No. of Enclosures.	Two

* Sub-D. to Commissioner
7/6/92

ABSTRACT.

Report that ... visited ... and the Survey Superintendent ... in the Manemane ... village and ascertained ... letters not ... Khan Sahib ... Sahib ... Survey No. 21 ... has encroached upon Survey No. 26, Petta ...

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

The accompanying Petition No. 2,22

dated 8th April 92 received at the

Dewan's Office from Hajee Ebrahim Saib, Office Bandar Davis, Cascada, Kolar District, in re the encroachment of Bagarikan Kal Soolikeri and upon Petitioner's Office land at the 25

is forwarded, together with its two

enclosures, to the Chief Engineer for examination & report.

The Petn will be returned.

By Order,

Draft Memo 20/10

Chief Secretary.

BANGALORE,
Oct 1892.

The Dy Com's report on the subject of this petn has been received & carefully perused by me. My views on the Complaint of Mohammedan Mokeem of Soolikeri Sub. Dist. & the Petnr Hajee Ebrahim & his opponent are fully recorded in References Put up & recommended to Govt Council for orders.

T. M
22/10/92

Submitted -
The accounts of the various Supt Engineers for the year 1892-93 are appended at this Section 22

was not present, on the subject matter of the Petition but was before the Court was after the complaint of the Commissioner, Mr. Mackenzie, and on oath had been sworn by the Mr. Commissioner before the matter. The petitioners were then permitted to view & place the facts before the Council.

The papers were received from Subscriber & stated a Mackenzie's complaint there had been a final adjudication of the Mr. Commissioner which had been already published & by Mr. Mackenzie Sat.

The present petition is an appeal against the said decision of the Commissioner by the said Mr. Mackenzie Sat.

The decision was given by the Commissioner under the provisions of the ~~Land Act~~ Land Act 1913 of the Land Act and the Commissioner found the boundary fixed by the Surveyor to be incorrect and varied the map of the district & in view & agreed with his decision.

Under these circumstances, orders are issued under the original order to call the Surveyor right & Examine & report thereon to Council. ~~The~~ appeal, ~~which~~ is dismissed with Costs, ~~to be paid~~

Posted for hearing on 27th April '13

613

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

The accompanying Petition No. 212

dated 18th April 92 received at the

Dewan's Office from Haji Rasul Khan,

Coffee-Planter, Kadur Canikee

appealing against the Kadur

Deputy Commr's order of 19th

March 92, regarding the boundary

between S. Nos 61 and 26

is forwarded, together with its two

enclosures, to the Deputy Commr

for submission of his proceedings

connected with the case, including

original petition, Counter petition

of Sangu No 26.

2. The petition, Counter is

returned.

By Order,

Draft

(Councillors rule)

Chief Secretary.

BANGALORE,
2 August 1893.

12

M. G. C. P. Bangalore.—21-11-92—3,000.

From the same No. 134 of 23-8-93

Petn. Br. Dist
1895

(General Serial No. 30.) 2720

1893. P/20

14

From The Dy: Commissioner,
Kadiri District.

To The Chief Secretary
to the Government of Madras

Dated 23rd

Despatched 24th August 1893.

Received

Enclosures No. 24 file of P.P.

General No. 136 / 1895/94.
No.

In reply to his Memo
Pr. Petition F. 71-92 dated 2nd inst.
stant, calling for the
entire records connected
with the appeal preferred
by one Haji Ahmed Khan
of Tadipatri, regarding
the boundary of Nos.
6 and 26 of the Immedia-
tavaram village, Tadi-
patri Taluk, has the
honor to submit the

entire Proceedings (as per desire) including the original application dated 11th September 1885, received from Registrar Nairobi: Also Sketch for Survey No 26 (Side paper No 3 in the file).

A copy of Endorsement No 409 dated 20th May 1895 given to Resident is also enclosed for information.

The Appeal petition received with the Memorandum referred to, is herewith returned, together with its enclosures.

H H Lindley

By: Commissioner

Nairobi

by the said Co authorities to mark off
bounds any pt of the said land claimed
a breadth, 300 yds in length, to be between
the said Survey Nos 61 & 86 and before
him both the said Mahadivadu and
Pitts have deposed that the Mundkur
& the boundary is correct and that neither
has anything to say about it. A bund
formed of this, by your honor's order
we shou that the Mahadivadu has un-
authorizedly & deliberately deported
of Survey No 86 and that he has at the
time of inquiry been deprived of
plaint his servant did so without his
knowledge &c. Besides it is clear from
all the Govt Records that the land in
dispute forms a part and parcel of
Survey No 61, and if at present exhibits
any doubtful appearance it has
been in the possession and occupancy
of Govt from the Commencement and
that it was only encroached upon very
recently i.e about 3 years ago. Another
proof than the age and size of the Coffee
plants is upon it is necessary to mention
another fact in question. Moreover
the date of Mahadivadu's presenting
a Petition for the remeasurement
favourably with the circumstances

3 Whilst about 2 months ago, the
Dist Surveyor visited the land in
dispute and surveyed it again. Both
at the present & the time. He did not

from any remarks of his own regarding the trench caused to be dug up by the Land & Surveyors between the two Roads, than simply saying that the same is correct.

Matters being like this your Petitioner is sorely surprised to be favoured with an order (from the Dy Comr) that he (Petr.) should not set his foot on the land which, he has lawfully been obtaining at the sacrifice of an enormous sum.

Your poor Petr is really very sorry for his having been given an order like this, which, properly speaking ought to have been given to Petr's opponent Mohadin saib for all the trouble he has been giving till now, namely.

First - Cultivating Govt land without authority.

Second - Presenting a Petition for the same to conceal the above fraud.

Third - Telling a false word that this land is his.

Fourth - Trying to skirk at the time of inquiry and throwing the blame upon his servant.

Fifth - Giving vain trouble and annoyance both to Govt and Petitioner till now.

A mere glance at the existing Revenue Survey Boundary, the village map and the measurement of the land in question will at once convince any body that Petr has actually been encroached upon

As stated in ord[r] No 557 8/19/3/92

2/ there can be no reason for any modifica
in the Plan &c by the Rive Surveyor
Depart[t], and if this really so, the Sur
ought to have been specified in the
Notification of the time of Subdivision
and Petr would never have taken th
trouble & fure having got for such an
enormous sum if he was really aware
of this.

I would suggest, from all the
above that the District Surveyor
the impression in that the River Survey
Bands [illegible] upon the Land in question
were all restricted in accordance with
the modifica[n] made in the Govt Plan
after Resurvey and therefore the area
to your Petr[s]. The District Surveyor
may not be right in his Conjecture.
All the Town Survey[s] and Bands
were put up on the Land immediately
after Resurvey of Nos 61 & 62 and the
truth or otherwise of this would be known
if the Asst Com[r] River Surveyor Depart
himself examined them.

There being so many variation
and discrepancies in the matter, Petr
most humbly and respectfully prays
that the Asst Com[r] in Conjunction
with the Superintendent River Surveys
Depart[t] may kindly be ordered to
inspect the Spot in question and report
to the [illegible] or otherwise of Petr's

now, represented by me and claim
justice thereupon. Your Petitioner
further agrees to defray the Costs &c
that may be incurred by the Supt
Revenue Survey Department, on account
of his journey to inspect the land in question.

Your Petitioner begs to remain
Most Honored & Respected Sir
Your most Obedient & humble Servant

Signed — Major Russell Khan
Coffee Planter
Tarikere

Before the Government of *His Highness* the Maharaja of Mysore.

Rtn

~~Appeal~~ No. 212 of 1892-93

Appellant. Vs. Respondent.

Haji Rasul Khan
of Jarikare
Kadur District

Tagere Hankal
Inamuddin
Sab

Decision. 4-11-93

In September 1888 Respondent applied for Survey No. 26 (58 acres). In March 1889, he stated that he applied for the land, because a portion of his coffee estate (No. 61) was erroneously included by the Survey Deptt. in No. 26 ~~61~~ The land minus Kharab was at last sold in auction on 25th May 1891 at which appellant purchased it for Rs. 3609. On 29th May 1891, the

Respondent again claimed the land on the ground that his estate was included in it. An enquiry was ordered to be held in regard to the land claimed by the Respondent as belonging to his estate, and meanwhile the sale was confirmed in July 1891. In March 1892, the Deputy Commissioner after enquiry decided, under Section 27 of the Revenue Code, that according to Kulichu Ishpani, 2-35 acres of Survey No. 26 belonged to the Respondent, and directed the remainder to be made over to the applicant. The Deputy Commissioner also said that he would consider

consider the claim of the appellant to a refund of such portion of the sale proceeds as ~~was~~ has proportionate to the area made over to Respondent. The appeal is against this order.

2. The appellant's contention is that he is entitled to the whole of Survey No 26, as no mention was made in the sale proclamation that any portion of it belonged to a third party. The land now sold to the appellant is as follows:-

Total area of No 26 -	58·5
Deduct.	
(a) Kharab -	2-5
(b) Land belonging to Respondent	2·35
Remainder	53·5

3 Under the foregoing circumstances, Government

see no reason to interfere with the action of the Deputy Commissioner. If the appellant however wishes, within 3 months from this date, to have the sale cancelled, it may be cancelled and the land sold again or a refund made to him of an amount of the sale proceeds in proportion to the area made over to the Respondent

25

'By order'

Asst

Chief Secretary

Draft

7899
Pet. F. 71-32

Copy to the Deputy Commissioner, Kaira District, with the papers received with his No. 1343 dated 23rd August 1933.

'By order'

Chief Secy:

15 n-93

No. 212

MYSORE DEWAN'S OFFICE,
PETITION DEPARTMENT,
11th November 1893
15

Endorsement granted to Haji Rasul Khan, Coffee Planter, Kaveba Imbiere

in reply to his Petition Registered No. 212 dated 18th April 93 appealing against the Kadur Deputy Commrs order of 19th March 93, resuming the boundary between S. Nos 61 & 26 in the Makenahalli village

Petitioner is informed that the Government approve of the action taken by the Deputy Commr. If Petitioner wishes, within 3 months from this date, to have his sale cancelled, the Deputy Commr has been requested to cancell it and resell the land. If not, petitioner will be allowed a refund of a sum in proportion to the area made over to the Respondent.

2 The enc: are returned

11/11

"By Order"

Redraft

Chief Secretary.

S.V.

Mysore Govt. Central Press, Bangalore.—9-2-93—2000.

...ees to be 4 to the value of Rs 2
each are affixed.

16

Jari Kere 14-5-92
18th April 1892 16-11-93

MYSORE DEWAN'S OFFICE
PETITION DEPARTMENT
REG'D. No. 212
Dewan 28-4-92

Abstract

To the Dewan of the Territories
His Highness Government
Mysore

7 1/2

Most Honored and Respected Sir.

The Humble Petition of
Major Russel Khan Coffee Planter,
Jari Kere; most humbly and respectfully

Sheweth.

15/10/92

That for your humble Petr having complained to the Deputy Commissioner (on 16/12/92) Kadur District, that one Sofarikhan Kel Mohadin Sab proprietor of Survey No. 61 next to Petrs has encroached upon his (Petrs) Coffee land Survey No. 26 situated in the village of Anandada Tavare, Lingadahalli Magani, Jari Kere Taluk which he has been taking up in the Public auction, and caused great damage to Petrs Crops upon it by driving his Cattle and causing them to graze thereupon and that he should be dealt with as he deserves for his misdeeds your Petr has given an order No. 5 dated 19/3/92 to the effect of his

9/12/92
VL

should be given ba
of Survey No. 26 unpa
taken up by the said
Cultivation and that
according to the Regu
Revenue Code forms a part of Survey
No. 61 in the possession and occupancy
of the said Mokhadirsab^o the same
has become Confirmed per notes &
plan &c^a received from Mysore Revenue Survey
Department and that (Pet^r) should not
interfere with it nor obstruct the foot
path existing on it from the beginning.
and that this circumstance has been
brought to the notice of Government also.

With reference to the above, Petr^r humbly
begs to lay before you the following.

The fact that the footpath
in question, on this No, exists from
time immemorial, and is used as
a thoroughfare by all, is evident from
its being clearly noticible on the village
map, and Petr^r had no business to ob-
struct it at any time.

That the aforesaid has already 2
made encroachments upon Petr's land
Survey No. 26) is established long ago,
and the same may now clearly be observed
by your kindly perusing that Sheikdar's
first Report (who was deputed to place
Petr^r in possession of the land in question)
After taking up this land the la^d Sauk